IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15880 of 2004

Between:

1 Mahender Jaiswal, S/o Late Bhagwandin Jaiswal,
R/o H.No.2-6-102, Jaipur Colony, Nagole, Hyderabad-68

2 Santosh Kumar Jaiswal, S/o Late Bhagwandin Jaiswal,
R/o H.No.2-6-102, Jaipur Colony, Nagole, Hyderabad-68

3 Smt.Pavan Kumari Jaiswal, D/o Late Bhagwandin Jaiswal, W/o Jagjeet Kumar Jaiswal, R/o H.No.2-6-102, Jaipur Colony, Nagole, Hyderabad-68

4 Smt.Suman Kumari Jaiswal, D/o Late Bhagwandin Jaiswal, W/o Pavan Kumar Jaiswal, R/o H.No.2-6-102, Jaipur Colony, Nagole, Hyderabad-68

5 Smt.Geeta Jaiswal, D/o Late Bhagwandin Jaiswal, W/o Sunilkumar Jaiswal,
R/o H.No.2-6-102, Jaipur Colony, Nagole, Hyderabad-68

..... PETITIONER(S)

AND

1. The Joint Collector, Ranga Reddy District at Khairatabad, Hyderabad

2. The Deputy Collector /Mandal Revenue Officer, Hayatnagar Mandal,
Ranga Reddy District

3. Jangam Janga Reddy, S/o Chilka Reddy,
Kranthi Colony, Plot No.30, Vanasthalipuram, Ranga Reddy District,
Hyderabad

4. Kota Narasimha Reddy, S/o Raji Reddy,
Piglipur Village, Hayatnagar Mandal, Ranga Reddy District

5. Kata Narasimha Reddy, S/o Ranga Reddy,
Piglipur Village, Hayathnagar Mandal, Ranga Reddy District

6. Kolan Achi Reddy, S/o Malla Reddy,
Piglipur Village, Hayathnagar Mandal, Ranga Reddy District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus declaring the orders of the 1st Respondent in Case No.D5/6329/2000 dated 17-07-2004 as illegal, arbitrary, unreasonable and consequently set aside the same.

Counsel for the Petitioners:MR.A.RAVINDER REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent No.3: MR.B.VIJAYSEN REDDY

Counsel for the Respondent Nos.4 to 6:----

The Court at the stage of admission made the following ORDER:

The petitioners invoked the jurisdiction of this Court under Article 226 of the Constitution of India to declare the orders passed by the first respondent-Joint Collector, Ranga Reddy District, in case No.D5/6329/2000, dated 17-07-2004 as illegal and arbitrary and to set aside the same.

The third respondent filed a revision before the first respondent against respondents 4 to 6 aggrieved by the orders passed by the Revenue Divisional Officer, Ranga Reddy East Division, (RDO), dated 04-04-1997 in File No.A2/3379/1994 in respect of land bearing Survey No.51/A to an extent of Acs.37-00 situated at Piglipur Village, Hayathnagar Mandal, Ranga Reddy District.

As the third respondent claims that he is the owner and possessor of the land admeasuring Acs.92-20 guntas of the said survey number, Respondents 4 to 6 approached the second respondent-Mandal Revenue Officer, Hayathnagar Mandal, claiming to be the agreement holders of the land to an extent of Acs.37-00. The second respondent accepted the same and confirmed the patta rights in their favour by his order dated
28-05-1994. Questioning the same, the third respondent preferred an appeal before the RDO, who advised the parties to get the land surveyed and submit a survey report and till such time, stayed the implementation of the order passed by the second respondent, dated 28-05-1994. Meanwhile, the second respondent issued pattedar passbooks in favour of respondents 4 to 6, whereas the RDO disposed of the appeal observing that the documents filed by respondents 4 to 6 cannot be validated and advised the parties to settle the matter before the Civil Court. As the said pattedar passbooks, which were issued during the pendency of the appeal, have not been cancelled, the third respondent carried the matter in revision before the first respondent, who after considering the matter, allowed the appeal setting aside the order passed by the second respondent holding that Section 5-A of the A.P. (Rights in Land and Pattedar Pass Books) Act, 1971 (for short “the Act”) enables the second respondent to regularize the transfers but he cannot embark upon deciding serious disputes as to the title more so, when the transfer is disputed on the basis of fraud, coercion, forgery or other circumstances under which the contract may become void and voidable, it is not proper for the second respondent to enquire into, decide such questions, validate the sale deeds and regularize the documents i.e. agreement of sale under Section 5-A of the Act and accordingly, cancelled the pattedar passbooks and title deeds issued by the second respondent in favour of respondents 4 to 6 advising them to settle the matter before the Civil Court.

The petitioners, who are not parties to the above revision, filed the present writ petition questioning the said order contending that the third respondent is

claiming an extent of Acs.92.20 guntas in Survey No.51/A whereas their grand father had sold only an extent of Acs.50-00 to the third respondent and the claim of the third respondent over and above Acs.50-00 is illegal and the claim of respondents 4 to 6 is also illegal.

Heard the learned counsel for the petitioners and Mr. B.Vijaysen Reddy, learned counsel appearing for the third respondent.

The learned counsel for the petitioners contends that when a revision filed by the petitioners in Case No.D5/8531/2002 is pending before the first respondent about the discrepancy in maintaining the records, the first respondent ought not to have disposed of the revision filed by the third respondent without the petitioners being made as parties to the revision petition. He further contends that taking advantage of the impugned order, the third respondent is now claiming rights over Acs.92-20 guntas, which he is not entitled to.

A perusal of the impugned order passed in the revision does not indicate the recognition of the rights of the third respondent for total extent of Acs.92-20 guntas.

In view of the same, if the proceedings for mutation of the name of the third respondent in the revenue records before the second respondent are pending, it is always open for the petitioners to make their objections before the second respondent. On making such objections, it is for the second respondent to consider the same and pass appropriate orders.

The pendency of the revision filed by the petitioners before the first respondent itself cannot be a ground for setting aside the impugned order passed by the first respondent since the first respondent has not decided the rights of the parties and the impugned order no way effects the rights of the petitioners.

The writ petition is accordingly disposed of. No costs.

26th OCTOBER, 2004.

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To

1 The Joint Collector, Ranga Reddy District at Khairatabad, Hyderabad

2 The Deputy Collector /Mandal Revenue Officer, Hayatnagar Mandal, Ranga Reddy District

3 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad (OUT)

4 Two CD copies.